

FLOOR SPEECH
OPPOSING VOTE TO CONFIRM JUDGE BARRETT TO SUPREME COURT
October 26, 2020

Today, the Senate is gathered in the middle of an unprecedented pandemic. More than 220,000 Americans have died. Millions more have been infected. Millions more are out of work because of the resulting economic crisis.

These are some of the hardest times to fall upon this nation in decades. People are hurting. They are scared. They are exhausted. They are looking for help.

Millions of Americans are also looking around, asking how they can help their communities.

They are stepping up – whether it's as members of the essential workforce, as health care workers, or by donating their time or resources to a charity or local food bank. We are seeing the best of this country.

Here in the Senate, we too have the power to do something to help. On a much larger scale. We have the power – and the duty. We could do something big – to help beat this virus, to help people and businesses get back on their feet, to help make life easier for the millions who are struggling.

And, yes, the Senate is gathered. In the middle of a pandemic.

But we aren't gathered here by the Senate Majority Leader to do anything to help the American people. We aren't gathered here to do the hard work to negotiate, to compromise, and to pass the urgently needed COVID-19 relief that Americans are clamoring for.

No, instead, we're gathered here today to fast track the confirmation of a far-right judge onto the United States Supreme Court. In the middle of a pandemic. Eight days before the conclusion of a presidential election, with tens of millions of ballots already cast.

It is shameful. This body has truly lost its way.

The American people are looking on in anger and disbelief as the Senate Majority forces this nomination – just four years after the Majority said, in no uncertain terms, that the Senate should not consider a Supreme Court nominee eight full months before the election.

Yes, that's what Senate Majority Leader Mitch McConnell said: The Senate should not consider President Obama's Supreme Court nominee a full eight months before the election. But now, he says we should install President Trump's nominee – eight days before the election.

How did we get here?

Why would Republicans so flagrantly violate their own rules – and violate the legitimacy of the Court and the Senate – for this nominee?

To solve that mystery, we've actually got a clue. It's on the Supreme Court's schedule.

On November 10th, the Supreme Court will hear oral arguments in a suit – brought by Republican Attorneys General and supported by the Trump Administration, to destroy the Affordable Care Act.

Three years after Senate Republicans tried and failed to repeal the Affordable Care Act in Congress, they're now trying to terminate the law in the Courts.

Their relentless pursuit to destroy the nation's health care law knows no end.

And they need to get their Supreme Court nominee onto the bench in time to hear their case.

You've heard it many times over the past few weeks, but it bears repeating what's happening right now. Because it's stunning. Senate Republicans are rushing another far-right judge onto the bench. Days before the election, and all in the effort to cement a conservative majority on the Supreme Court -- to destroy the Affordable Care Act. In the middle of a pandemic.

This all taking place under the direction of a President who has stated the coronavirus pandemic "affects virtually nobody."

Republicans want to rip away health care from millions of people in the middle of a public health crisis that has killed more than 220,000 Americans. They want to take away protections from millions of people living with pre-existing conditions in the middle of a pandemic – a pandemic that has caused millions more Americans who have contracted COVID -19 to now have a new pre-existing condition.

The President openly admits he wants the Supreme Court to do what Republicans in Congress couldn't, to demolish the ACA. "It'll be so good if they end it," he said in an interview with 60 Minutes. And the President and Republicans in Congress don't have any plan to replace what they want to destroy.

After all these years of trying to end the Affordable Care Act, including a two-year period when the Republican party held control in the House, Senate, and White House, they still don't have a replacement for the ACA.

If Republicans succeed – if this Supreme Court nominee joins an increasingly conservative Court in striking down the ACA – the results would be catastrophic for my home state of New Mexico.

The estimated 834,700 New Mexicans with pre-existing conditions would face higher costs, fewer benefits, and could have trouble finding coverage.

Overturning the ACA would immediately end coverage for millions of Americans who became eligible for Medicaid through the Medicaid expansion – over 250,000 in New Mexico alone.

Seniors getting prescription drugs could no longer afford their medications.

People like Jeanne, an Albuquerque-based senior, who told me recently: “Now, like many seniors, I take a medication that is so expensive that I would reach the donut hole every year. I can’t afford to pay for that medication out of pocket.”

Rural hospitals – which are absolutely critical during this pandemic – could close their doors. As Dr. Val Wangler, the chief Medical officer of Rehoboth McKinley Health Care Services told me: “The Affordable Care Act is critical to the health of patients in New Mexico rural communities. Threatening the health care coverage of our communities in the midst of the greatest public health crisis of our times is unconscionable.”

For Indian Country and Native Communities, ACA repeal would be absolutely devastating. I have heard firsthand accounts from Tribal leaders, Native families, and health care providers about how the ACA has improved the health care landscape across Indian Country – literally saving lives.

The ACA has opened the doors for so many Native Americans to access the care they need, whether it’s an unplanned medical emergency or routine wellness check-ups and screenings.

Access to quality health care is critical for Native communities which face disproportionate impacts from the COVID-19 pandemic.

The federal government has a trust and treaty obligation to consult with Tribes and to provide Native Americans health care.

With this rushed, hypocritical process, Senate Republicans are violating our most sacred duties to Indian Country.

We know that the Supreme Court will rule on the fate of the Affordable Care Act. That much is certain.

But what other cases might this Court rule on in the near future? On what other cases might Judge Barrett cast the deciding vote?

Well, as you’ve heard me mention a few times now: we are in the middle of a presidential election. The most important election of our lifetimes.

Facing an uncertain outcome at the polls, President Donald Trump has repeatedly sought to undermine the legitimacy of this election. He’s lied about the safety of mail-in voting – despite the fact that he’s a mail-in voter. He’s deliberately tried to weaken the postal service.

And President Trump – along with members of this very body – are telegraphing that they want the Supreme Court – not the voters – to decide this election.

They want to sow enough doubt about the legitimacy of the democratic process that it has to go to the courts – and then they want their hand-picked conservative judge to tip the scales for them.

You don't get to choose the judge who decides your own case. That's not how we achieve true justice in our democracy.

It has been shocking to watch as this President – aided and abetted by members of this very Senate – has been so overt about his desire: to put a judge on the Supreme Court who will rule in his favor in any disputed election.

That's a tactic of authoritarians—not a democracy.

But in her confirmation hearing, Judge Barrett wouldn't even comment on whether a president should commit to the peaceful transfer of power – as this president has refused to do.

She called that a “political controversy.”

The peaceful transfer of power is not a political controversy. It's one of the most sacred tenets of our democracy.

What else might Judge Barrett rule on in the coming years? No doubt, cases concerning the most urgent existential crisis we are facing as a nation – climate change.

Cases to decide whether we'll let big polluters do whatever they want to our air, water, and planet.

There is no denying the science of climate change. It is a real and present danger to the lives and livelihoods of people all across this nation and the world. My home state of New Mexico is in the bull's eye, with increasingly severe wildfires and droughts.

This president is one of the few public figures left in this country who says he doesn't believe the scientists. You'd hope a nominee to the Supreme Court, the highest court in our land, wouldn't follow his lead.

But Judge Barrett, again, wouldn't even comment about whether she believes climate change is real. She again said that was a political controversy.

The only place climate change is a political controversy is within the White House and within the Republican Party. And the rest of us are paying the price, while they decide whether or not

to believe the overwhelming consensus of the scientific community – whether or not to believe their very eyes.

There are so many other issues on which a Justice Barrett would likely rule –including on a woman’s right to make her own health care decisions.

A leading advocate for women’s rights to reproductive health, Justice Ruth Bader Ginsburg, would be replaced with a public advocate against Roe v. Wade.

The nominee signed her name to statements against Roe that ran in full page newspaper ads; undisclosed to the Senate. She signed joint public letters against Roe; undisclosed to the Senate. She gave multiple speeches to organizations dedicated to overturning Roe; undisclosed to the Senate. In a law review article, she wrote that abortion was “always immoral.”

And after promising for years only to nominate judges who will overturn Roe, Senate Republicans suddenly are shy about it. They suddenly don’t have the courage of their convictions, and they won’t let the public in on their true, long-stated agenda: overturning Roe, once and for all.

There is so much else at stake in this fight . On voting rights. On workers’ rights. And so much more. All with real human consequences for the lives of people all across this country.

Let’s not lose sight of the real people who will be affected by this Republican march to overload the court with loyalists.

With so much at stake, the American people deserve to have a say. It’s that simple.

So I urge my Republican Colleagues to take a step back. Think about what you are doing. Think about the long-term damage you are doing to the legitimacy of our courts – and to the faith of the American people that their voices are being heard.

What’s at stake is more than Justice Ginsburg’s seat — it’s the American people’s seat.

With that, I yield the floor.